

THE HON'BLE MRS JUSTICE T.MEENA KUMARI  
&  
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

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WRIT PETITION NO :18707 of 2005

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**Dated: 12.09.2005**

Between:

1. The Commissioner of Prohibition & Excise,  
A.P., Hyderabad and another. .. **Petitioners**

And

K.V. Ramana Rao. .. **Respondent**

**THE HON'BLE MRS JUSTICE T.MEENA KUMARI**  
**&**  
**THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY**

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**WRIT PETITION NO :18707 of 2005**

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**ORDER:** (Per Hon'ble Smt. Justice T. Meena Kumari)

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This writ petition is filed seeking a direction, in the nature of writ of certiorari, to set aside the Order dated 31.8.2004 in O.A.No.4665 of 2001 on the file of the A.P. Administrative Tribunal, Hyderabad.

The respondent is the applicant before the Tribunal. The status of the parties will be referred to as arrayed in the O.A. for the sake of convenience.

The brief facts, that led to the filing of the O.A., are: On rejection of the request of the applicant to treat the period of his absence from duty from 8.9.1977 to 19.4.1982 as leave on medical grounds and also to treat the period from 20.4.1982 to 25.10.1993 as compulsory wait, he filed O.A.No.4665 of 2001 before the Tribunal. The Tribunal having observed that the applicant is absent from 25.2.1978 but not from 8.9.1977, disposed of the said O.A. directing the respondents-writ petitioners to treat the period from 25.2.1978 to 19.4.1982 and from 25.10.1993 till retirement for the purpose of pensionary benefits. Having aggrieved by the same, the Department filed the present writ petition.

Heard the learned counsel.

It is submitted by the learned G.P. appearing on behalf of the writ petitioners-respondents that on an earlier occasion, the Government has already issued orders to treat the period of absence of the applicant from 9.4.1963 to 7.9.1977 as qualifying service for pension vide G.O.Ms.No.1907, dated 3.10.2001 and earlier to it, as per the orders in Cr.No.41478/85/Ex/II, dated 27.3.1994, the absence of the applicant from 20.4.1982 to 25.10.1993 is treated as "Dies-non" and therefore, the orders of the Tribunal in granting Medical Leave from 25.2.1978 to 19.4.1982 are not sustainable and the same is liable to be set aside.

On the other hand, the learned Counsel for the applicant reiterated the contentions raised before the Tribunal and contended that the order of the Tribunal is justified and it needs no interference.

Perused the material available on record.

Admittedly, the applicant has been suffering from the disease "schizophrenia". Due to the same, on an earlier occasion, the applicant was continuously absent from duty for more than five years and on the representation made by him, on humanitarian grounds, the Government issued orders dated 3.10.2001 ordering to treat the period from 9.4.1963 to 7.9.1977 as qualifying service for pension. Subsequently also, the applicant could not attend the office from 25.2.1978 to 19.4.1982. The material on record goes to show that the interrugnum period from 20.4.1982 to 25.10.1993 was treated as "Dies non". Therefore, the

Tribunal has directed the respondents to treat the period from 25.2.1978 to 19.4.1982 and from 25.10.1993 for the purpose of pensionary benefits.

The main grievance of the respondents is that in spite of the fact that on an earlier occasion, though the absence of the applicant was beyond five years, the Government has considered his case on humanitarian grounds and ordered to treat the same as qualifying service for the purpose of pensionary benefits and therefore, the subsequent continuous absence during the period in question, cannot be treated as Medical Leave as ordered by the Tribunal in as much as, the same is quite contrary to the C.C.A. Rules.

We have perused the order impugned. There is no dispute that the case of the applicant was considered by the Government itself on humanitarian grounds considering his disease "schizophrenia" being suffered by him and accordingly, the period of absence from 9.4.1963 to 7.9.1977 was ordered to be treated as a qualifying service for the purpose of pension. Likewise, the Tribunal has also considered the case of the applicant on humanitarian grounds taking into account the disease being suffered by the applicant and granted the relief in favour of the applicant.

In the facts and circumstances of the case and in view of the fact that the Government itself has taken a lenient view in treating the period of the absence of the applicant as qualifying service for the purpose of pensionary benefits, and also considering the disease of the applicant being suffered by him, we feel that the Tribunal is justified in granting the relief under the order impugned and therefore, it needs no interference by this Court. Accordingly, we see no merits in this writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice P. Lakshmana Reddy

Dated: 12.09.2005

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